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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210426
Party	Defendant GraphEffect, Inc.
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Date	06/10/2013
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application No. 85/775,791
For the Trademark SHIFT.COM
Published April 23, 2013

SHIFT COMMUNICATIONS, INC.)	
)	
Opposer,)	
)	Opposition No. 91210426
v.)	
)	
GRAPHEFFECT, INC.,)	
)	
Applicant.)	
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APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

GRAPHEFFECT, INC. (“Applicant”), for its answer to the Notice of Opposition filed by **SHIFT COMMUNICATIONS, INC.** (“Opposer”) against Applicant’s pending trademark application to register SHIFT.COM (the “Mark”), Application Serial No. 85/775,791, pleads as follows:

Answering the preamble to the Notice on page 1 of the Notice of Opposition, Applicant denies that Opposer will be damaged by the registration of the Mark.

1. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof.
2. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof.

3. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof.

4. Denied.

5. Admitted-in-part, denied-in-part. Applicant has maintained a website located at www.shift.com since at least as early as October 2012. Applicant admits that it had at one time maintained a Facebook page at www.facebook.com/starttheshift but denies that it now maintains a page at said address. The remaining allegations in this paragraph are denied.

6. Denied. By way of further response, Applicant admits that its website previously contained a statement as set forth in the allegation in this paragraph.

7. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof.

8. Admitted-in-part, denied-in-part. Applicant admits that on November 9, 2012, Applicant filed the application that is the subject of this Opposition with the United States Patent and Trademark Office, Serial No. 85/775,791, for the registration of the mark SHIFT.COM for “Providing an online collaboration platform that enables multiple users to work together from different locations” in International Class 42, based on an intent to use, and that Applicant’s Mark was published for opposition in the Official Gazette on April 23, 2013. Applicant is without information or belief sufficient to admit or deny the remaining allegations and on that basis denies those allegations and demands proof thereof. By way of further response, Applicant is investigating the specific allegations contained in this paragraph, but Applicant denies the characterization of these events as set forth in this paragraph.

9. Admitted.

10. Denied.

11. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof.

12. Admitted.

13. Admitted.

14. Admitted.

15. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof. By way of further response, Applicant is investigating the specific allegations contained in this paragraph, but Applicant denies the characterization of these events as set forth in this paragraph.

16. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof.

COUNT ONE

Likelihood of Confusion

17. Applicant repeats and realleges each and every responses set forth above regarding paragraphs 1-16.

18. This paragraph contains legal conclusions to which no response is required. The remaining allegations in this paragraph are denied.

19. This paragraph contains legal conclusions to which no response is required. The remaining allegations in this paragraph are denied.

20. This paragraph contains legal conclusions to which no response is required. The remaining allegations in this paragraph are denied.

21. This paragraph contains legal conclusions to which no response is required. The remaining allegations in this paragraph are denied.

COUNT TWO

False Designation of Origin

22. Applicant repeats and realleges each and every responses set forth above regarding paragraphs 1-21.

23. This paragraph contains legal conclusions to which no response is required. The remaining allegations in this paragraph are denied.

24. This paragraph contains legal conclusions to which no response is required. The remaining allegations in this paragraph are denied.

25. This paragraph contains legal conclusions to which no response is required. The remaining allegations in this paragraph are denied.

26. Denied.

COUNT THREE

Falsely Suggests a Connection with Opposer

27. Applicant repeats and realleges each and every responses set forth above regarding paragraphs 1-26.

28. This paragraph contains legal conclusions to which no response is required. The remaining allegations in this paragraph are denied.

COUNT FOUR

Fraud on the U.S. Patent and Trademark Office

29. Applicant repeats and realleges each and every responses set forth above regarding paragraphs 1-28.

30. Denied.

31. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof.

32. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof.

33. Applicant is without information or belief sufficient to admit or deny the allegations in this paragraph and on that basis denies those allegations and demands proof thereof.

34. Denied.

35. Admitted-in-part, denied-in-part. Applicant admits that its mark has been published in the Official Gazette. The remaining allegations in this paragraph are denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

WHEREFORE, Applicant prays that the Notice of Opposition be dismissed in its entirety and that Application No. 85/775,791 be allowed.

Respectfully submitted,

Date: June 10, 2013

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Attorneys for Applicant GraphEffect, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION was mailed, first-class postage prepaid, to counsel for Opposer:

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Attorneys for Opposer

Date: June 10, 2013

/John Paul Oleksiuk/

John Paul Oleksiuk